

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**SNL WORKFORCE FREEDOM
ALLIANCE, *et al.*,**

Plaintiffs,

v.

**NATIONAL TECHNOLOGY AND
ENGINEERING SOLUTIONS OF
SANDIA LLC d/b/a SANDIA NAT'L
LABORATORIES, *et al.*,**
Defendants.

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Case No. 1:22-cv-00001-KWR-SCY

**DECLARATION OF KELLY
WESTLAKE IN SUPPORT OF
NATIONAL TECHNOLOGY AND
ENGINEERING SOLUTIONS OF
SANDIA, LLC'S OPPOSITION TO
MOTION FOR TEMPORARY
RESTRAINING ORDER**

DECLARATION OF KELLY WESTLAKE

I, Kelly Westlake, hereby declare:

1. I am the Senior Manager of the Prime Contract and Import-Export Trade Compliance Organization at National Technology and Engineering Solutions of Sandia, LLC ("NTESS"). I have held this position for two years. I make this declaration in support of NTESS's Opposition to Plaintiffs' Motion for Temporary Restraining Order. The facts set forth in this declaration I know to be true of my own personal knowledge and upon information and belief. If called to testify in this matter, I could and would competently testify to the matters set forth in this declaration.

2. NTESS is a private Limited Liability Corporation and wholly owned subsidiary of Honeywell International Inc. NTESS manages and operates Sandia National Laboratories (SNL) pursuant to Contract No. DE-NA0003525 (hereinafter "the M&O Contract") that NTESS entered into with the U.S. Department of Energy (DOE National Nuclear Security Administration (NNSA)). SNL is not a separate legal entity. It is simply a physical space owned by the Department of Energy.

3. NTESS manages day-to-day site operations of SNL in compliance with the M&O Contract.

4. NTESS directly employs more than 14,000 individuals.

5. As a federal contractor, NTESS is required to comply with federal regulations applicable to it, many of which are effectuated through the terms of NTESS's M&O contract with the DOE. For example, the M&O Contract provides that the Contracting Officer may, "from time to time and at any time, *unilaterally* modify the Contract to revise, add or delete" Federal Acquisition Regulation (FAR), or DOE Acquisition Regulation (DEAR) clauses contained in section H of the M&O contract due to changes in the law or regulations or policy resulting from the approval of new deviations." Unilateral modifications to the M&O Contract can be made if there are changes to the FAR, DEAR, or Section H clauses (Special Contract Requirements) that result from the approval of new deviations to existing FAR, DEAR, or Section H clauses.

6. President Biden created The Safer Workforce Task Force in order to provide the heads of federal agencies ongoing guidance to keep their employees safe during the COVID-19 pandemic. The Safer Federal Workforce Task Force is led by the White House COVID-19 Response Team, the General Services Administration (GSA), and the Office of Personnel Management (OPM).¹ In July 2021, the Safer Workforce Task Force required that "onsite contractors who are not fully vaccinated or decline to provide their vaccination status must wear a mask, physically distance, comply with a weekly or twice-weekly testing requirement, and are subject to Government-wide restrictions on official travel." Accordingly, the Task Force FAQs require that onsite contractor employees attest to their vaccination status and that those who choose not to respond be treated as unvaccinated. Further those employees who are not fully vaccinated or who decline to provide information about their vaccination status must be part of a serial testing

¹ See <https://www.saferfederalworkforce.gov/> (last visited Jan. 11, 2022).

program or submit proof of a negative COVID-19 test from no later than the previous 3 days prior to entering a federal building. A copy of the Safer Workforce Task Force Covid-19 Workplace Safety: Agency Model Safety Principles issued July 29, 2021 is attached as **Exhibit A**

7. On September 9, 2021, President Biden signed Executive Order No. 14042 (“EO”), “Ensuring Adequate COVID Safety Protocols for Federal Contractors.” This Executive Order applies to federal contractors like NTESS.²

8. On September 24, 2021, the Safer Workforce Task Force issued updated guidance for federal contractors and subcontractors which are covered by the EO which requires, among other things, that all covered contractor employees be fully vaccinated by December 8, 2021 unless they are legally entitled to an accommodation.³

9. Because NTESS was required to comply with both the EO and its guidance, NTESS announced its intention to institute a vaccination requirement. On October 5, 2021, NTESS’s Lab Director issued a communication informing NTESS’s workforce of the Executive Order as well as NTESS’s anticipation that the vaccination mandate would require all workforce members and subcontractors to be fully vaccinated against COVID-19 by December 8, 2021. The Lab Director stated that NTESS would comply with the mandate and applicable laws that define reasonable workplace accommodations for employees with a legitimate and demonstrable medical or religious reason. The message provided a link to submit requests for accommodation and provided an October 15 deadline to submit a request. A copy of this October 5, 2021 communication is attached as **Exhibit B**.

² See <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-ensuring-adequate-covid-safety-protocols-for-federal-contractors/> (last visited Jan. 7, 2022).

³ See <https://www.whitehouse.gov/omb/briefing-room/2021/09/24/new-guidance-on-covid-19-workplace-safety-for-federal-contractors/> and https://www.saferfederalworkforce.gov/downloads/Draft%20contractor%20guidance%20doc_20210922.pdf (last visited Jan. 7, 2022).

10. On October 12, 2021, the DOE issued DOE Order 350.5, COVID Safety Protocols for Federal Contractors. The purpose of DOE Order 350.5 is “[t]o ensure the continued operation of DOE sites and facilities under health and safety emergencies as designated by the President and implement Executive Order 14042, *Ensuring Adequate COVID Safety Protocols for Federal Contractors*.” The Order provides that its Contractor Requirements Document (CRD) or the FAR class deviation 52.223-99, “Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors” must be included in M&O contracts bilaterally or unilaterally.

11. On October 14, 2021, the DOE/NNSA Contracting Officer unilaterally modified NTESS’s contract. This modification requires NTESS to “comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of this contract, for contractor workplace locations published by the Safer Federal Workforce Task Force,” including physical distancing, masking, and testing requirements, as well as the requirement that all contractor workers be vaccinated against COVID-19. A copy of this Contract Modification, No. 0128, is attached as **Exhibit C**.

12. On October 18, 2021, NTESS issued an announcement informing all employees of this issue and reiterating the need and deadlines to become vaccinated. A copy of the October 18, 2021 announcement of this change is attached as **Exhibit D**.

13. On November 10, 2021, the Safer Workforce Task Force issued guidance extending the deadline for federal contractor employees to be fully vaccinated from December 8, 2021 to January 18, 2022.⁴

14. In line with this change, NTESS issued a November 16, 2022 announcement extending the deadline for NTESS employees to be fully vaccinated until January 18, 2022. In

⁴ See https://www.saferfederalworkforce.gov/downloads/Guidance%20for%20Federal%20Contractors_Safer%20Federal%20Workforce%20Task%20Force_20211110.pdf (last visited Jan. 7, 2022).

this announcement, NTESS also noted that unvaccinated employees could use accrued vacation and flex time (paid time off) as well as up to 160 hours of unpaid time off after January 18, 2022 in order to give them additional time to consider becoming vaccinated. A copy of this November 16, 2021 announcement is attached as **Exhibit E**.

15. On December 7, 2021, Judge R. Stan Baker of the United States District Court for the Southern District of Georgia (the “Georgia District Court”) issued an injunction halting the enforcement of EO.

16. Because it was unclear whether the Georgia District Court’s order would be stayed or quickly reversed, on December 8, 2021, NTESS issued a Special Announcement reminding their workforce that they should be prepared to comply with the January 18, 2022 deadline to be fully vaccinated. In line with the Safer Federal Workforce Task Force’s requirements, this announcement noted that all employees who were not fully vaccinated in house—by Sandia Medical—must submit proof of their COVID-19 vaccination by January 4, 2022. While NTESS acknowledged injunction against the EO, because the litigation was in early stages, and NTESS noted that it still planned to comply with the guidance and requirements published by the Safer Federal Workforce Task Force. A copy of this December 8, 2021 announcement is attached as **Exhibit F**.

17. On December 9, 2021, the attorneys defending the EO filed a Notice of Appeal to the 11th Circuit as well as a Motion to Stay the Georgia District Court’s injunction halting enforcement of the EO until the 11th Circuit could rule.

18. On December 21, 2022, the attorneys defending the EO withdrew their request that the Georgia District Court stay its December 7, 2021 order granting the plaintiffs’ motions for a preliminary injunction pending the completion of their appeal to the United States Court of

Appeals for the Eleventh Circuit. The district court denied the emergency stay on December 23, 2021.

19. Because it appeared that the EO would be enjoined for some time if not permanently, NTESS issued a January 5, 2022 Special Announcement informing the workforce that it was pausing enforcement of the vaccine mandate and would be implementing a serial testing programs beginning January 18, 2022. A copy of this announcement is attached as **Exhibit G**.

20. I have reviewed the Complaint in this action entitled *SNL Workforce Freedom Alliance, et al. v. National Technology and Engineering Solutions of Sandia, LLC, et al.* I understand that Plaintiff Anna Burns is currently employed by NTESS and David Peterson and Jon Brooks are no longer employees. I am not aware of any formal or informal organization called SNL Workforce Freedom Alliance (“SWFA”).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January 18, 2022.

Kelly E.
Westlake

Digitally signed by Kelly E.
Westlake
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Kelly Westlake

Safer Federal Workforce Task Force
COVID-19 Workplace Safety: Agency Model Safety Principles
Issued July 29, 2021

Purpose

The purpose of this document is to provide model safety principles for executive departments and agencies (hereafter, "agency" and collectively, "agencies") for their COVID-19 workplace safety plans. In Executive Order No. 13991, President Biden established the [Safer Federal Workforce Task Force](#) to oversee the development and implementation of agency COVID-19 workplace safety plans across the Federal Government.

Agencies should incorporate these principles into their existing COVID-19 workplace safety plans. Agencies with onsite contractors should address how the protocols below are being applied to contractor personnel to promote Federal workplace safety in the context of COVID-19.

Overview of Model Principles

The Federal Government is committed to addressing essential work requirements consistent with best public health practices. The Administration's paramount concern is the health and safety of all Federal employees, onsite contractors, and individuals interacting with the Federal workforce.

The principles presented here are aligned with the latest guidance from the Centers for Disease Control and Prevention (CDC) for [employers](#) and for [fully vaccinated people](#) and the Occupational Safety and Health Administration (OSHA) on [protecting workers](#), based on evolving understanding of the pandemic. These principles will be reassessed over time, as conditions warrant and as CDC guidelines are updated.

Where a locality has imposed additional pandemic-related requirements more protective than those set forth in these model safety principles, those requirements should be followed in Federal buildings and on Federal land in that locality.

Goal

The health and safety of the Federal workforce is the Administration's highest priority.

Key Updates to Model Safety Principles

Consistent with CDC guidance, in areas of high or substantial transmission (see the [CDC COVID-19 Data Tracker County View](#)), Federal employees, contractors, and visitors must wear a mask inside Federal buildings, except for the limited exceptions discussed in the section on *Face Masks and Physical Distancing* below. Individuals who are not fully vaccinated must wear a mask regardless of community transmission level.

Federal agencies need to ask about the vaccination status of Federal employees and onsite contractors—employees and onsite contractors must sign an attestation confirming their vaccination status, or they will be treated as not fully vaccinated for purposes of safety protocols. Federal agencies also must establish a program to test not fully vaccinated Federal employees and onsite contractors weekly or twice-weekly.

In addition to receiving paid time off to be vaccinated and to deal with any side effects, employees will receive paid time off if they need to accompany a family member being vaccinated.

Fully vaccinated Federal employees and onsite contractors do not need to physically distance or participate in weekly screening testing, and are not subject to any Government-wide restrictions on official travel (although agency travel policies still apply). In areas of high or substantial transmission, they need to wear a mask in public indoor settings in Federal buildings. In areas of low or moderate transmission, they do not need to wear a mask.

Those Federal employees and onsite contractors who are not fully vaccinated or decline to provide their vaccination status must wear a mask, physically distance, and comply with a weekly or twice-weekly screening testing requirement, and are subject to Government-wide restrictions on official travel.

Visitors must provide information on their vaccination status and comply with the requisite safety protocols. Visitors who are not fully vaccinated or decline to provide their vaccination status must provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a Federal building or in-person participation in a Federally hosted meeting, event, or conference. The requirement to provide information on vaccination status and a negative COVID-19 test does not apply to members of the public entering a Federal building or Federal land to obtain a public service or benefit. If they are not fully vaccinated, these visitors must comply with all relevant CDC guidance, including wearing a mask and physically distancing from other people.

Health and Safety

Information about Vaccination

The Administration strongly encourages all Americans who are eligible for vaccination, including Federal employees and contractors, to be vaccinated. Employees will receive paid time off to be vaccinated and to deal with any side effects. Employees will also receive paid time off to accompany a family member being vaccinated. For this purpose, a "family member" is an individual who meets the definition of that term in OPM's leave regulations (see 5 CFR 630.201).

Given the different safety protocols for individuals who are fully vaccinated and those who are not fully vaccinated, agencies need to ask about the vaccination status of Federal employees and onsite contractors. Employees and onsite contractors must attest to the truthfulness of the response they provide. If an employee or onsite contractor chooses not to provide a response, they will be treated as not fully vaccinated for the purposes of these protocols. In requesting this information, agencies should comply with any applicable Federal laws, including requirements under the Privacy Act and the Paperwork Reduction Act, and any applicable collective bargaining obligations. When an employee or contractor discloses that they are not fully vaccinated or declines to complete the attestation, agencies should treat that individual as not fully vaccinated for purposes of implementing safety measures, including with respect to mask wearing, physical distancing, testing, travel, and quarantine as discussed in further detail below.

Visitors to Federal buildings should also be asked to provide information about vaccination status. In requesting this information, agencies should comply with any applicable Federal laws, including requirements under the Privacy Act and the Paperwork Reduction Act. Visitors who are not fully vaccinated or who decline to provide information about their vaccination status must provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a Federal building. See the section below on *Meetings, Events, and Conferences* for how these visitor requirements apply to in-person participants in meetings, events, and conferences hosted by agencies.

These requirements related to the provision of information about vaccination and provision of proof of a recent negative COVID-19 test do not apply to members of the public entering a Federal building or Federal land to obtain a public service or benefit. If they are not fully vaccinated, these visitors must comply with all relevant CDC guidance, including wearing a mask and physically distancing from other people.

Levels of Community Transmission

For purposes of this guidance, when determining levels of community transmission in a given area, agencies should reference the [CDC COVID-19 Data Tracker County View](#). Agencies can use discretion in determining the counties relevant to the determination of the level of community transmission in a given area for a given Federal facility. For example, agencies may consider the county in which an agency facility is located as well as the transmission levels of surrounding local counties from which employees commute to the facility.

Telework and Remote Work

Agencies should utilize telework and remote work consistent with the principles set forth in [OMB Memorandum M-21-25](#) and agency plans for reentry and post-reentry.

COVID-19 Coordination Team

Each agency should maintain its COVID-19 Coordination Team, as detailed in [OMB Memorandum M-21-15](#). This team should, at a minimum, include a representative from: each component agency (if applicable); the appropriate human resources office(s); occupational safety and health experts; executive leadership; legal counsel; and a public health expert. If such a public health expert does not exist at the agency, the Safer Federal Workforce Task Force will designate someone. The team should meet regularly to review compliance with agency COVID-19 workplace safety plans and protocols, consider potential revisions to agency COVID-19 workplace safety plans and protocols pursuant to guidance from the Safer Federal Workforce Task Force and current CDC guidelines, and evaluate any other operational needs related to COVID-19 workplace safety. The team should coordinate all decisions with Facility Security Committees, as appropriate. For privately owned facilities leased by the Federal Government, the team must coordinate with the General Services Administration (GSA), where appropriate, and the lessor's designated representative.

Face Masks and Physical Distancing

Individuals who are not fully vaccinated must wear a mask regardless of community transmission level. In areas of high or substantial transmission, fully vaccinated people must wear a mask in public indoor settings, except for limited exceptions discussed in this section.

In areas of low or moderate transmission, in most settings, [fully vaccinated](#) people generally do not need to wear a mask or physically distance in Federal buildings or on Federal land, except where required by Federal, State, local, Tribal, or territorial laws, rules, or regulations. Fully vaccinated individuals might choose to wear a mask regardless of the level of transmission for a variety of reasons. Nothing in CDC guidance precludes an employee from wearing a mask, if the employee so chooses. CDC's guidance for mask wearing and physical distancing in specific settings, including [healthcare, transportation, correctional and detention facilities](#), and [schools](#), should be followed, as applicable.

Federal employees and onsite contractors who are not fully vaccinated or who decline to provide their vaccination status-or who are in an area of substantial or high transmission-must [wear a mask](#) that [covers their nose and mouth](#), and that is in accordance with current CDC guidance. CDC [recommends](#) the following: disposable masks, masks that fit properly (snugly around the nose and chin with no large gaps around the sides of the face), masks made with breathable fabric (such as cotton), masks made with tightly woven fabric (i.e., fabrics that do not let light pass through when held up to a light source), masks with two or three layers, and masks with inner filter pockets. Agencies should not allow novelty or non-protective masks, masks with ventilation valves, or face shields as a substitute for masks.

Individuals who are not fully vaccinated or who decline to provide information about their vaccination status-including employees, onsite contractors, and those visitors who are required to provide vaccination status-must maintain distance and properly wear masks. To the extent practicable, individuals who are not fully vaccinated or who decline to provide information about their vaccination status should maintain a distance of at least six feet from others at all times, consistent with CDC guidelines, including in offices, conference rooms, and all other communal and work spaces.

In the vast majority of cases, employees who are not vaccinated due to disability or religious practices or beliefs will be able to follow the safety protocols for not fully vaccinated individuals as a reasonable accommodation. In the rare case where they cannot, or where it is otherwise required by law, other reasonable accommodations should be made, barring undue hardship. Some individuals may require accommodations under applicable law relating to masking requirements, and such accommodations should be in accordance with existing [Equal Employment Opportunity Commission guidance](#).

For individuals who are required to wear a mask:

- Appropriate masks should be worn consistently and correctly (over mouth and nose).
- Appropriate masks should be worn in any common areas or shared workspaces (including open floorplan office space, cubicle embankments, and conference rooms).
- In general, people do not need to wear masks when outdoors. However, [consistent with CDC guidance](#), those who are not fully vaccinated should wear a mask in crowded outdoor settings or during outdoor activities that involve sustained close contact with other people who are not fully vaccinated.
- Agencies may provide for exceptions consistent with CDC guidelines, for example, when an individual is alone in an office with floor to ceiling walls and a closed door, or for a limited time when eating or drinking and maintaining distancing in accordance with CDC guidelines.

Masked individuals may be asked to lower their masks briefly for identification purposes in compliance with safety and security requirements.

Masks do not provide the same level of protection as respirators and should not replace personal protective equipment required or recommended at the workplace.

Testing

Agencies must establish a program to test Federal employees and contractors working onsite who are not fully vaccinated, or who decline to provide information about their vaccination status, for COVID-19 weekly or twice-weekly. Agencies do not need to regularly test employees and contractors who are fully vaccinated.

Contact Tracing

The agency's COVID-19 Coordination Team will collaborate with and support the contact tracing programs of local health departments to help identify, track, and manage contacts of COVID-19 cases.

The team will engage in coordination with facilities staff to implement infection control and workplace safety efforts once informed of a known or suspected case of COVID-19 (due either to specific symptoms or a positive test).

The team should ensure that the agency makes disclosures to local public health officials, as required or necessary, to provide for the health and safety of Federal employees, contractors, and the general public, in accordance with local public health mandates. If COVID-19 cases occur within a specific building or work setting, it will be the responsibility of that agency's COVID-19 Coordination Team (or a field office or agency component designee) to determine in consultation with local public health officials appropriate next steps. Agencies should be transparent in communicating related information to the workforce, as relevant and appropriate; disclosures must be consistent with Federal, State, and local privacy and confidentiality laws and regulations.

Travel

Federal employees should adhere strictly to CDC [guidelines](#) before, during, and after travel.

For Federal employees who are fully vaccinated, there are no Government-wide restrictions on travel (although agency travel policies still apply).

For Federal employees who are not fully vaccinated or who decline to provide information about their vaccination status, official domestic travel should be limited to only necessary mission-critical trips. International travel should also be avoided, if at all possible, unless it is mission critical (e.g., military deployments, COVID-19 response deployments or activities, diplomats traveling, high-level international negotiations that cannot occur remotely). Heads of agencies should issue specific guidance to account for the particulars of their agency's mission.

Meetings, Events, and Conferences

Should an agency intend to host an in-person meeting, conference, or event that will be attended by more than 50 participants regardless of whether participants include members of the public the agency must first seek the approval of its agency head, in consultation with the agency's COVID-19 Coordination Team.

In-person attendees at any meetings, conferences, and events hosted by an agency, regardless of size, must be asked to provide information about vaccination status. In requesting this information, agencies should comply with any applicable Federal laws, including requirements under the Privacy Act and the Paperwork Reduction Act. In-person attendees who are not fully vaccinated or decline to provide information about their vaccination status must provide proof of a negative COVID-19 test completed no later than the previous 3 days and comply with masking and physical distancing requirements for individuals who are not fully vaccinated consistent with the requirements for visitors in the *Face Masks and Physical Distancing* section above. In-person attendees in areas of high or substantial transmission must wear a mask in public indoor settings regardless of vaccination status.

Symptom Monitoring

If Federal employees, onsite contractors, or visitors have symptoms consistent with COVID-19, they should not enter a Federal workplace.

Federal employees and contractors working on site should regularly complete virtual or in-person health checks (ask about symptoms, close contact with someone with SARS-CoV-2 infection, and SARS-CoV-2 testing and diagnosis status). The agency will use this information to assess the individual's risk level and

to determine whether the individual should be allowed entry to the workplace. Visitors may be asked to complete symptom screening before entering a Federal facility. In developing these tools, agencies may adapt the one developed by [CDC](#).

Any individual, regardless of vaccination status, who develops [any symptoms consistent with COVID-19](#) during the workday must immediately isolate, wear a mask (if the individual is not already doing so and one is available), notify their supervisor, and promptly leave the workplace. Agencies should have processes in place to provide advice and support to supervisors on any related reporting or human resources requirements.

Quarantine, Isolation, and Steps for Fully Vaccinated Individuals Following Exposure to Someone with Suspected or Confirmed COVID-19

Any individual with a suspected or confirmed case of COVID-19 will be advised to isolate, [pursuant to CDC guidelines](#), and in compliance with State, local, and Tribal laws and regulations. Personnel who are not fully vaccinated and who have had a close contact with someone who has tested positive for COVID-19 should follow [CDC](#) and State, local, and Tribal guidance for quarantine.

Individuals who have been fully vaccinated and have had close contact with someone with suspected or confirmed COVID-19 should get tested 3-5 days after exposure, even if they do not have symptoms. They should also wear a mask indoors in public for 14 days following exposure or until their test result is negative. If their test result is positive, they should isolate for 10 days.

Confidentiality and Privacy

All medical information collected from individuals, including vaccination information, test results, and any other information obtained as a result of testing and symptom monitoring, will be treated in accordance with applicable laws and policies on confidentiality and privacy, and will be accessible only to those with a need to know. Agencies should consult their Senior Agency Officials for Privacy on matters related to the handling of personally identifiable information and identify a point of contact for all questions relating to personal medical information.

Workplace Operations

Occupancy

Agencies may establish occupancy limits for specific workplaces as a means of facilitating physical distancing. Note that by reducing the number of people in a space, occupancy limits also increase the heating, ventilation, and air conditioning delivery of outdoor air per person.

Environmental Cleaning

Agencies should ensure regular cleaning of common use, high-touch, and high-density spaces, such as lobbies, restrooms, elevators, and stairwells. Office space that is in regular use is to be cleaned regularly, and in accordance with [CDC guidelines](#). Wipes and other [Environmental Protection Agency-approved disinfectants](#) will be made available for use by individuals to wipe down workstations and related personal property. Physical barriers, such as plexiglass shields, may be installed, where appropriate.

In the event of a suspected or confirmed case of COVID-19 in the workplace, agencies should ensure enhanced environmental cleaning of the spaces that the individual occupied or accessed in accordance with CDC and, where applicable, GSA guidance, which provides as follows:

- If fewer than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, clean and disinfect the space.
- If more than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, cleaning is enough. You may choose to also disinfect depending on certain conditions or everyday practices required by your facility.
- If more than 3 days have passed since the person who is sick or diagnosed with COVID-19 has been in the space, no additional cleaning (beyond regular cleaning practices) is needed.

If enhanced cleaning is required, wait as long as possible (at least several hours) before cleaning and disinfecting. Extended wait periods allow increased opportunity for viral deactivation to occur naturally, while also allowing time for aerosols to settle, prior to surface disinfection.

The agency's COVID-19 Coordination Team will determine the appropriate scope of workplace closures needed—in some cases, it may be a suite or individual offices or part of a floor, in other cases, it may include an entire building.

Hygiene

Hand sanitizer stations are to be available at the building entrance and throughout workspaces. Hand sanitizers should contain at least 60% alcohol and be manufactured in accordance with the requirements of the U.S. Food and Drug Administration (FDA). Ingredients should be listed on a "Drug Facts" label. Agencies should ensure the hand sanitizer is not on the FDA's [do not use](#) list.

Ventilation and Air Filtration

Modifications to ventilation systems should be considered in accordance with CDC [guidance](#), especially as building population density increases. To the maximum extent feasible, indoor ventilation will be optimized to increase the proportion of outdoor air and improve filtration. Deployment of portable high-efficiency particulate air (HEPA) cleaners should be considered for higher-risk spaces (e.g., health clinics).

Collective Bargaining Obligations

Consistent with President Biden's policy to support collective bargaining, agencies are reminded to satisfy applicable collective bargaining obligations under 5 U.S.C. Chapter 71 when implementing workplace safety plans. Agencies are also strongly encouraged to communicate regularly with employee representatives on workplace safety matters.

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Sandia National Laboratories, Exceptional service in the national interest

October 5, 2021

Colleagues,

Keeping our workplace safe is an enduring priority, and one that has been especially challenging during the long road we have been down together since March of last year when COVID-19 entered our lives. We have implemented dozens of measures to keep each other safe while continuing our important national security work. Today, we begin a new path in that effort: required vaccines.

Last month the president issued an [Executive Order](#) that requires federal agencies and contractors, like Sandia, to comply with all guidance published by the [Safer Federal Workforce Task Force](#), which includes a COVID-19 vaccination mandate.

As a result, we anticipate the vaccination mandate will require all workforce members and subcontractors to be [fully vaccinated](#) against COVID-19 by Dec. 8. Sandia made COVID-19 vaccinations mandatory for new hires on Sept. 13.

Until the past few months, I never anticipated the need for vaccination mandates. As vaccines became available and the pandemic waned this spring we had hoped to return to more widespread on-site work. COVID-19 infections among our staff, once a regular occurrence, fell to few and far between as did numbers in our communities. We were optimistic.

But that changed quickly with the arrival of the more contagious delta variant of COVID-19. Numbers went back up and our hopes were dashed. The virus remains a deadly threat to us all. More than 700,000 Americans have died because of the virus, and some overwhelmed hospitals are rationing health care. Medical workers are overworked and burned out, and thousands have quit their jobs out of exhaustion and frustration.

COVID-19 remains a hazard in our communities and workplace that could hurt our ability to fulfill our mission on behalf of the American people. Many of you have been quarantined due to exposure to the virus. Others are exhausted from isolation and the stress of worrying about and caring for loved ones. We've put professional interactions and training on hold. We've all experienced COVID fatigue.

The bottom line is that the current situation is not sustainable. If the delta surge wanes, another could be right behind it. Vaccination is the best tool to protect each other and defeat the virus. Three are readily available, and the Food and Drug Administration has granted full approval to the Pfizer-BioNTech vaccine, also known as Comirnaty.

Sandia will comply with the vaccine mandate and applicable laws that define reasonable workplace accommodations for employees with a legitimate and demonstrable medical or religious reason for not meeting this safety requirement. We intend to be consistent with NNSA and the Nuclear Security Enterprise in deciding on vaccine accommodation requests, on-site COVID-19 safety protocols, and the next steps if accommodation requests are denied.

I know many of you will have questions about accommodations, consequences for noncompliance and the application of a potential serial testing program. I have many of the same questions. For now, we don't have all the answers but expect additional direction soon from DOE/NNSA. For information on what is known at this time, visit [Sandia's COVID-19 website](#).

It is important to note that those who are unvaccinated have only a short time to comply with the vaccination requirement.

To be considered fully vaccinated by Dec. 8 would require the first dose of the Moderna vaccine by Oct. 27, which is only three weeks away. It is recommended to take the second Moderna shot four weeks after the first. For the FDA-approved Pfizer vaccine, the first shot should be taken by Nov. 3 with the second three weeks later. Those choosing the one-series Johnson & Johnson-Janssen vaccine would need their shot by Nov. 24 to comply by the deadline. People are considered fully vaccinated two weeks after completion of a two-dose series (Moderna or Pfizer) or a single dose of the J&J vaccine.

I know that this vaccine requirement will not be popular with some of you. There are strong feelings on this subject, for and against. However, I support the government's decision to mandate vaccines because of the overwhelming scientific evidence of their safety and efficacy and the public health consequences of not being vaccinated. I ask each of you who have not been vaccinated to reconsider to help protect yourselves, your families, and your peers.

For those who require a medical or religious accommodation to the vaccination mandate, you must submit your request to [this site](#) by 5 p.m. MDT Friday, Oct. 15. If you have previously submitted a Sandia Reasonable Accommodation Request Form for either religious beliefs or medical circumstances, your request is in the review queue. If you have not submitted the form, please complete the reasonable accommodation form and submit it by Oct. 15. Unless you have a pending accommodation request, you must be fully vaccinated by Dec. 8.

Being a Sandian is all about working through challenges. I am certain that we will work through this together and provide our staff a safe on-site

environment where we can continue to advance the boundaries of science and engineering and strengthen our national security.

Our journey has not been easy. A significant number of workers have been on-site every day while the Labs met evolving health and safety protocols. Others have worked from home, setting up remote offices and adjusting to a virtual workplace none of us could have imagined two years ago. All of you stepped up in your own ways to keep Sandia on track and delivering results. I am endlessly grateful.

Thank you for everything you have done to protect each other these many months. You are extraordinary and I am proud to work alongside you.

-James



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AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT		1. CONTRACT ID CODE		PAGE OF PAGES 1 3	
2. AMENDMENT/MODIFICATION NO. 0128		3. EFFECTIVE DATE See Block 16C		4. REQUISITION/PURCHASE REQ. NO.	
6. ISSUED BY NNSA M&O Contracting Branch NA-APM-131 Albuquerque Complex P.O. Box 5400 Albuquerque NM 87185-5400		CODE 892332		5. PROJECT NO. (If applicable) 05005	
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code) National Technology & Engineering Solutions of Sandia, LLC Attn: Kelly Westlake 1515 EUBANK BLVD. SE P.O. BOX 5800, MS-0180, 87185-0180 ALBUQUERQUE NM 871850180		(x)		9A. AMENDMENT OF SOLICITATION NO.	
CODE 007113228		FACILITY CODE		9B. DATED (SEE ITEM 11)	
		x		10A. MODIFICATION OF CONTRACT/ORDER NO. DE-NA0003525	
				10B. DATED (SEE ITEM 13) 12/16/2016	

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended. ☐ is not extended.
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or electronic communication which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by letter or electronic communication, provided each letter or electronic communication makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

See Schedule

13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
X	D. OTHER (Specify type of modification and authority) Clause H-14, DEAR 970.5204-2, and E.O. 14042

E. IMPORTANT: Contractor ☒ is not ☐ is required to sign this document and return _____ copies to the issuing office.**14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)**

See page 2.

Payment:

Period of Performance: 01/18/2017 to 04/30/2022

Except as provided herein, all terms and conditions of the document referenced in Item 9 A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Maria D. Trujillo	
15B. CONTRACTOR/OFFEROR (Signature of person authorized to sign)	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA Maria D. Trujillo Digitally signed by Maria D. Trujillo Date: 2021.10.14 15:34:55 -06'00' (Signature of Contracting Officer)	16C. DATE SIGNED

Previous edition unusable

National Technology & Engineering Solutions of Sandia, LLC
Contract No. DE-NA0003525
Modification No. 0128
Page 2 of 2

1. PURPOSE

The purpose of this modification is to add Clause I-36 *FAR 52.223-99 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (OCT 2021)(DEVIATION)* and Department of Energy (DOE) Order 350.5 *COVID Safety Protocols for Federal Contractors* to Section J, Appendix B, *List of Applicable Directives* to implement Executive Order 14042, *Ensuring Adequate COVID Safety Protocols for Federal Contractors*.

2. CHANGES TO THE CONTRACT: The changes to the contract are as follows:

a. PART II - CONTRACT CLAUSES, SECTION I – CONTRACT CLAUSES, clause I-36 is hereby added as follows:

I-36 FAR 52.223-99 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (OCT 2021) (DEVIATION)

(a) *Definition*. As used in this clause -

United States or its outlying areas means—

- (1) The fifty States;
- (2) The District of Columbia;
- (3) The commonwealths of Puerto Rico and the Northern Mariana Islands;
- (4) The territories of American Samoa, Guam, and the United States Virgin Islands; and
- (5) The minor outlying islands of Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Atoll.

(b) *Authority*. This clause implements Executive Order 14042, *Ensuring Adequate COVID Safety Protocols for Federal Contractors*, dated September 9, 2021 (published in the Federal Register on September 14, 2021, 86 FR 50985).

(c) *Compliance*. The Contractor shall comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of this contract, for contractor workplace locations published by the Safer Federal Workforce Task Force (Task Force Guidance) at https://www.saferfederalworkforce.gov/downloads/Draft%20contractor%20guidance%20doc_20210922.pdf.

(d) *Subcontracts*. The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts at any tier that exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award, and are for services, including construction, performed in whole or in part within the United States or its outlying areas.

(End of Clause)

b. PART III - LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS. Section J, Appendix B, *List of Applicable Directives* is replaced in its entirety with Attachment 1.

From: [Sandia Communications](#)
Subject: Vaccination requirement now included in Prime Contract
Date: Monday, October 18, 2021 2:00:17 PM

Having trouble reading this email? [View it in your browser.](#)

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SPECIAL ANNOUNCEMENT

October 18, 2021

Vaccination requirement now included in Prime Contract

On Thursday, Oct. 14, the requirement for Sandia Labs to follow the Safer Federal Workforce Task Force COVID-19 [guidance](#) for federal contractors was added to the Sandia Prime Contract.

The new guidance is consistent with the expectation Labs Director James Peery communicated [Oct. 5](#). All employees must be fully vaccinated for COVID-19 by Dec. 8, 2021, unless legally entitled to an accommodation.

The guidance reiterates the face covering and physical distancing requirements already in effect at Sandia.

For employees who are not vaccinated and requested an accommodation, [updated FAQs](#) are posted on the COVID-19 website. Information also is available on the [Vaccination page](#) of that site.

To comply with the deadline, employees using the Moderna vaccine need their first shot by Oct. 27. Pfizer first shots should be administered by Nov. 3, and Johnson & Johnson by Nov. 24. Employees are encouraged to make plans for the vaccines and to confirm local availability. Use [VaccineFinder](#) (CDC) to obtain local vaccination appointments for the desired vaccine type.

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Updates on Vaccination Mandate

The date for Sandia employees to be fully vaccinated has been updated to **Jan. 18, 2022**.

Because the updated deadline has extended the time for employees to make decisions regarding vaccines, Sandia discontinued the previously announced option to take 90 days without pay following the deadline. This option was developed when an initial deadline was in effect and gave employees a short window of time for decisions and actions.

However, employees can take accrued vacation and earned flex time and up to 160 hours of unpaid time off after Jan. 18.

Starting the week of Nov. 15, Sandia will begin communicating the results of requests to those who asked for accommodations because of medical conditions or sincerely held religious beliefs. If an employee has not yet received communication regarding a submitted accommodation request, then their request is still being evaluated.

The deadlines for first and second doses has been updated to reflect Jan. 18 compliance:

	Moderna	Pfizer	J&J
1st shot	Dec. 7	Dec. 14	Jan. 4
2nd shot	Jan. 4	Jan. 4	N/A
Fully vaccinated	Jan. 18	Jan. 18	Jan. 18

Starting Nov. 15, Sandia Medical Clinic (SMC) began offering COVID-19 vaccines to unvaccinated Sandia employees. Call Sandia Medical Clinic at 505-284-4700 to schedule your vaccination appointment. SMC is **not** providing booster shots at this time.

Resources

Questions? Contact [HR Solutions](#) or call 505-284-4700.

Human Resources personnel at Sandia National Laboratories provide support to all Sandia National Laboratories employees.

Sandia's ExITS process has approved the use of this cloud-based product. See exits.sandia.gov for more information.

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From: [Sandia Communications](#)
Subject: Proof of COVID-19 vaccination required
Date: Wednesday, December 8, 2021 9:59:35 AM

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SPECIAL ANNOUNCEMENT

December 8, 2021

Proof of COVID-19 vaccination required

Because Sandia remains committed to providing a safe and secure workplace, members of the workforce should be prepared to comply with the Jan. 18, 2022, vaccine deadline. Management is aware of yesterday's temporary court-ordered pause on the vaccine mandate related to federal contractors, but **because the litigation is in early stages, Sandia will plan to comply with all guidance and requirements published by the [Safer Federal Workforce Task Force](#).**

To comply with the task force's requirements, all employees who were not fully vaccinated by Sandia Medical must submit proof of their COVID-19 vaccination. This requirement applies to regular and limited-term employees, interns and postdocs who received one or both of their original vaccines from an off-site provider. It does not apply to staff augmentation, PO contractors and visitors.

To meet the requirement, visit vaccineproof.sandia.gov, select one of the options shown and follow the instructions.

Proof of vaccination must be submitted no later than Jan. 4, but employees are strongly encouraged to submit their documentation before the winter shutdown period begins Dec. 27. Nonexempt employees should not submit their proof of vaccination during winter shutdown, as charging overtime or flextime for providing proof is not approved during winter shutdown.

Employees who received both doses of the Moderna or Pfizer vaccines from Sandia Medical will receive a confirmation email from Sandia Communications today, Dec. 8, indicating that their proof of vaccination has been verified. Those employees do not need to submit proof of vaccination. Those who do not receive a confirmation email and were fully vaccinated by Sandia Medical should upload their documentation using the vaccineproof.sandia.gov site.

Failure to submit proof of vaccination by the Jan. 4, 2022, deadline will lead to discipline up to and including termination.

More information is available on the [Sandia COVID-19](https://www.sandia.gov/covid-19) site. Questions to questions@sandia.gov.

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From: Sandia Communications <comms@sandia.gov>
Sent: Wednesday, January 5, 2022 11:04 AM
Subject: Sandia pauses enforcement of vaccine mandate

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SPECIAL ANNOUNCEMENT

January 5, 2022

Sandia pauses enforcement of vaccine mandate

Safety of the workplace remains Sandia's priority as surges in COVID-19 cases continue in New Mexico, California and across the nation. However, because the Executive Order requiring a vaccine mandate for federal contractors is still being litigated in the appellate courts, Sandia is pausing its enforcement of the mandate. Therefore, the discipline process for those employees who are unvaccinated and processing of religious and medical accommodations are on hold.

Despite the pause in enforcing a vaccination mandate, Sandia continues to encourage the small percentage of employees who remain unvaccinated to become fully vaccinated to create a safer workplace at the Labs and help deter community spread. COVID vaccines are proven to mitigate the risk of serious illness, hospitalizations and deaths.

Because the legal proceedings related to the Executive Order vaccine mandate have been expedited, it is important to understand that if the order is reinstated, the mandate would apply and will be immediately enforced for all employees.

The recent national surge in cases brought about by the highly contagious delta and omicron variants has underscored the need for continued safety practices, including

vaccines and boosters, to mitigate the spread and reduce the severity of breakthrough cases.

Testing required for unvaccinated employees and available for vaccinated personnel

To maintain a safe on-site working environment, Sandia Employee Health Services in New Mexico and California will begin serial and voluntary testing programs beginning Jan. 18. All unvaccinated employees who come on-site will be required to be tested at least weekly. Tests also will be available for vaccinated employees who are symptomatic. Contact Sandia Employee Health Services at 505-284-4700 (New Mexico) or 925-294-2700 (California) to arrange a test. Sandia may adapt its testing protocols based on worker safety, mission need and COVID test availability.

Any unvaccinated employee who is not part of the serial testing program but has to come on-site must be tested prior to entering a Sandia site. In addition, business travel for unvaccinated personnel is discouraged and still requires division leadership approval.

Regardless of vaccination status, workforce members should continue to follow Sandia's on-site COVID-19-safe protocols to ensure the safety of all:

- Wear face coverings while in a shared government vehicle or while indoors unless you are alone in an office with the door closed.
- Continue to practice physical distancing.
- Limit attendance for in-person meetings and use Microsoft Teams, even while on-site.

Update vaccination status and provide proof

Employees should update their status in the [attestation tool](#) to ensure the correct protocols are assigned. "I decline to respond" will be considered as unvaccinated. For those who have become fully vaccinated, there is an additional requirement to [upload proof](#) of vaccinated status, unless the employee was vaccinated by Sandia Employee Health Services.

Boosters for vaccinated employees

Sandia management expresses its gratitude and thanks to Sandia members of the workforce who are fully vaccinated. They are encouraged to get boosters. Employee Health Services in New Mexico will offer three booster clinics this month with dates and times announced in the [Sandia Daily News](#).

Return to work

Due to the surge of the COVID omicron variant, a formal re-entry plan will not be implemented at this time, but managers continue to have the discretion to require their employees to be on-site to meet business and mission requirements.

Town hall next Wednesday

Deputy Labs Director David Gibson will host a town hall to discuss the latest developments regarding Sandia's approach to help mitigate the spread of COVID-19 from 10:30 a.m.–11:30 a.m. MST Wednesday, Jan. 12. Click [here](#) to add the meeting to your Outlook calendar.

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